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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,651	12/21/2001	Gilles Rubinstenn	05725.1012-00	2641
22852	7590	10/31/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			SMITH, RUTH S	
			ART UNIT	PAPER NUMBER
			3737	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/024,651	Applicant(s) RUBINSTENN, GILLES	
	Examiner Ruth S. Smith	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-50 and 52-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3, 5, 13-20, 23, 25, 33-40, 43, 45, 48 and 50 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6-12, 21, 22, 24, 26-32, 41, 42, 44, 46, 47, 49, 52-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,6,8-12,21,22,26,28-32,41,42,46,47,52,54-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillebrand et al. The claims are directly readable on Hillebrand et al in that turning on the monitor for displaying the images taken by the camera results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The light will inherently irradiate the body part being imaged by the camera. With regard to claims 11,31, any image can be considered to be a calibrating image to determine if the image capture device is working properly. With respect to claim 55, the light emitted by the display device is not constant over time. With regard to claims 56-61, the light generated by the display will inherently/necessarily control irradiation of the body part.

Claims 1,2,4,6,8,10-12,21,22,24,26,28,30-32,41,42,44,46,47,49,52,54-61 are rejected under 35 U.S.C. 102(a) as being anticipated by "EZ200 Digital Camera User's Guide". The claims are directly readable on "EZ200 Digital Camera User's Guide" in that turning on the monitor for displaying the images taken by the camera results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The light will inherently irradiate the body part being imaged by the camera. With regard to claims 11,31, any image can be considered to be a calibrating image to determine if the image capture device is working properly. With respect to claim 55, the light emitted by the

display device is not constant over time. With regard to claims 56-61, the light generated by the display will inherently/necessarily control irradiation of the body part.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4,7,24,27,44,49,53,55,61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillebrand et al. Hillebrand et al disclose turning on the monitor for displaying the images taken by the camera which results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The light will inherently irradiate the body part being imaged by the camera. It is well known to use artificial intelligence in the processing of images. Therefore, it would have been obvious to one skilled in the art to have modified Hillebrand et al such that it uses AI to process the images. Such a modification merely involves the substitution of one well known type of image processing means for another. With respect to claims 4,24,44,49, Hillebrand et al disclose that the device does not need to be operated in a retail store, therefore, it would have been obvious to one skilled in the art to have allowed one to operate the device alone without the need for an additional person to operate the device. Furthermore, it is well known expedient in the art to provide an instruction manual to allow someone to know how to operate a device. Therefore, it would have been obvious to one skilled in the art to have provided a hard copy instruction manual to the subject allowing them to operate the device on their own. With respect to claim 53, the tool used to gather data would have been an obvious design choice of known equivalents in the absence of any showing of criticality. With regard to claim 61, the

light generated by the display will inherently/necessarily control irradiation of the body part.

Claims 7,27,55,61 are rejected under 35 U.S.C. 103(a) as being unpatentable over "EZ200 Digital Camera User's Guide". "EZ200 Digital Camera User's Guide" discloses turning on the monitor for displaying the images taken by the camera which results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The light will inherently irradiate the body part being imaged by the camera. It is well known to use artificial intelligence in the processing of images. Therefore, it would have been obvious to one skilled in the art to have modified "EZ200 Digital Camera User's Guide" such that it uses AI to process the images. Such a modification merely involves the substitution of one well known type of image processing means for another. With regard to claim 61, the light generated by the display will inherently/necessarily control irradiation of the body part.

#### ***Allowable Subject Matter***

Claims 3,5,13-20,23,25,33-40,43,45,48,50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed August 15, 2005 have been fully considered but they are not persuasive. Applicant's comments regarding the references not teaching "sending a signal" or "capturing an image" are not understood in that, as stated by the examiner, the turning on the monitor for displaying the images taken by the camera which results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The image can be captured by the camera while the screen is emitting light.

Furthermore, the light will inherently irradiate the body part being imaged by the camera. Applicant's arguments regarding inherency are not understood in that clearly anyone skilled in the art would recognize that the light emitted by the screen would necessarily cause the body part being imaged to be irradiated by such light.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth S. Smith whose telephone number is 571-272-4745. The examiner can normally be reached on M-F 7:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3737

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Ruth S. Smith', with a stylized, cursive script.

Ruth S. Smith  
Primary Examiner  
Art Unit 3737

RSS